

CONFERENCE COMMITTEE REPORT DIGEST

House Bill No. 1490 by Representative Connick

Digest of Bill as Finally Passed by the House

Proposed law provides that in awarding contracts, any public entity is authorized to reject the lowest bid from, or not award the contract to, a business in which any individual with an ownership interest of five percent or more has been convicted of, or has entered a plea of guilty or nolo contendere to any state felony crime or equivalent federal felony crime committed in the solicitation or execution of a contract or bid awarded under the laws governing public contracts under the provisions of Chapter 10 of Title 38 of the Louisiana Revised Statutes of 1950, professional, personal, consulting and social services procurement under the provisions of Chapter 16 of Title 39 of the Louisiana Revised Statutes of 1950, or the Louisiana Procurement Code under the provisions of Chapter 17 of Title 39 of the Louisiana Revised Statutes of 1950.

Proposed law provides that a public entity does not have a duty, responsibility, or requirement to perform criminal background checks on contractors, vendors, or subcontractors. Proposed law further provides that it shall be the responsibility of any person, company, or entity making an allegation of prior convictions on the part of any bidder to present prima facie evidence to the public entity supporting their claim.

Proposed law provides that if prima facie evidence is submitted substantiating that the lowest bidder has been convicted of, or has entered a plea of guilty or nolo contendere to any state felony crime or equivalent federal felony crime pursuant to proposed law and the public entity rejects the lowest bid, the company whose bid is rejected will be responsible to the public entity for the costs of rebidding, the increased costs of awarding to the second low bidder, or forfeiture of the bid bond, whichever is higher.

Proposed law defines "public entity" as any agency, board, commission, department, or public corporation of the state, created by the constitution or statute or pursuant thereto, or any political subdivision of the state, including but not limited to any political subdivision as defined in Art. VI, §44 of the Const. of La., and any public housing authority, public school board, or any public officer whether or not an officer of a public corporation or political subdivision.

(Adds R.S. 38:2212.8 and R.S. 39:2181-2182)

Summary of Amendments Adopted by the Senate

Senate Committee Amendments Proposed by Senate Committee on Transportation, Highways and Public Works to the Engrossed Bill.

1. Deletes some references to a requirement that "prima facie" evidence be submitted to authorize rejection of the lowest bid and making that bidder responsible for the costs of re-bidding and awarding.
2. Clarifies that the conviction or plea must be that of the 5% owner, and not the bidding entity itself to make the bidder responsible for the costs of re-bidding and awarding.
3. Deletes provision in the section of proposed law related to Title 39, that "public entity" means any political subdivision of the state, including but not limited to any political subdivision as defined in Art. VI, §44 of the Const. of La., and any public housing authority, public school board, or any public officer whether or not an officer of a public corporation or political

subdivision, and replaces it with the meaning "any other entity to which Chapter 16 and 17 of this Title apply".

Senate Floor Amendments to the Engrossed Bill.

1. Reduces the ownership interest in which proposed law applies from 5% or more to 2% or more in the section related to the Public Bid Law.
2. Adds Section relative to verification of immigration status of employees involved in public contract work.

Digest of Bill as Proposed by Conference Committee

Same as finally passed by the House except for the following:

1. Deletes some references to a requirement that "prima facie" evidence be submitted to authorize rejection of the lowest bid and making that bidder responsible for the costs of re-bidding and awarding.
2. Clarifies that the conviction or plea must be that of the 5% owner, and not the bidding entity itself to make the bidder responsible for the costs of re-bidding and awarding.